

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MCI COMMUNICATIONS SERVICES, INC.,)
dba VERIZON BUSINESS SERVICES)
For a Certificate of Registration.)

DOCKET NO. 2009-0039

DECISION AND ORDER

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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FILED

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MCI COMMUNICATIONS SERVICES, INC.,)
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_____)

Docket No. 2009-0039

DECISION AND ORDER

By this Decision and Order, the commission grants MCI COMMUNICATIONS SERVICES, INC., dba VERIZON BUSINESS SERVICES ("Applicant") a certificate of registration ("COR") to provide wireless telecommunications services in the State of Hawaii ("State"), on a resold basis.

I.

Background

Applicant is a Delaware corporation with its principal place of business in Ashburn, Virginia. Applicant was formerly known as MCI WorldCom Communications Inc. (formerly known as WorldCom Technologies, Inc.) and is currently authorized by the commission to provide resold and facilities based telecommunication services in the State.¹ Applicant, a subsidiary

¹See In re WorldCom, Inc., MFS Intelenet of Hawaii, Inc., and WorldCom Technologies, Inc., Docket No. 97-0206, Decision and Order No. 16006, filed on October 9, 1997; In re MCI, Inc., Docket No. 05-0246, Decision and Order No. 22202, filed on December 29, 2005.

of Verizon Communications, Inc., is affiliated with MCImetro Access Transmission Services LLC, a commission authorized competitive local exchange carrier² and Cellco Partnership, dba Verizon Wireless, a commission registered provider of commercial mobile radio services ("CMRS") (also known as wireless telecommunications services).³

A.

Applicant's Request

On February 23, 2009, Applicant filed its application for a COR ("Application") to operate as a reseller of wireless services in the State.⁴ Applicant utilized the form application developed in In re Public Utilities Commission, Docket No. 03-0186, Order No. 21324, filed on August 27, 2004 ("Order No. 21324"), to make its request ("Official COR Form").

²See In re MCImetro Access Transmission Services, Inc., Docket No. 97-0190, Decision and Order No. 15898, filed on September 10, 1997.

³See In re GTE Wireless of the Pacific, Incorporated, GTE Wireless Incorporated, and Bell Atlantic Corporation, Docket No. 00-0190, Decision and Order No. 17819, filed on July 7, 2000.

⁴Applicant served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this docket pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

B.

Consumer Advocate's Position

On March 16, 2009, the Consumer Advocate filed its Statement of Position informing the commission that it does not object to approval of Applicant's request. The Consumer Advocate, however, notes that the business telephone number provided in the Application for referral of customer service inquiries is not toll-free⁵ and recommends that Applicant provide a toll-free telephone number to receive calls regarding service or billing matters, as required by HAR § 6-80-114(6). In addition, the Consumer Advocate recommends that Applicant be required to maintain and promptly provide updated information regarding its service plans (with terms and conditions) and the appropriate contact information (i.e., designated carrier representative) upon the commission's, the Consumer Advocate's, or a consumer's request, and that such updated information be placed on Applicant's website, if any, within a reasonable time period.

II.

Discussion

HRS § 269-7.5 prohibits a public utility from commencing business in the State without first obtaining a certificate of public convenience and necessity ("CPCN") from the

⁵See Application, Section V.

commission.⁶ HAR § 6-80-17(c) and (d) also state, in relevant part:

(c) Any person, other than the incumbent telecommunications carrier, seeking to offer, initiate, or provide intrastate telecommunications service must apply in writing to the commission for a certificate of authority. The application must:

(1) Include information on the:

- (A) Type of telecommunications service to be offered;
- (B) Geographical scope of the carrier's proposed operation;
- (C) Type of equipment to be employed in the service;
- (D) Rates or charges proposed to be imposed and the regulations that will govern the proposed service; and
- (E) Applicant's financial ability to render the proposed service, including a copy of the most recent audited financial statement and, if more than three months have elapsed since the date of the most recent audited financial statement, a current, unaudited financial statement; and

(2) Comply with all applicable commission orders and rules. The commission may reject any application that fails to meet any of these requirements or is otherwise incomplete.

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(d) Where exempted by federal law from entry regulation by the State, a telecommunications carrier seeking to offer, initiate, or provide intrastate telecommunications service

⁶On June 3, 1996, HAR Chapter 6-80 took effect. HAR Chapter 6-80, among other things, replaces the CPCN with a COR for telecommunications carriers providing CMRS, and establishes procedures for requesting and issuing a COR.

shall apply for a certificate of registration with the commission by complying with subsections (c)(1), (A) - (D) and (c)(2) only.

HAR § 6-80-17(c) and (d) (emphasis added).

Recognizing that the federal Omnibus Budget Reconciliation Act of 1993 preempted state and local governments from regulating the entry of and the rates charged by providers of CMRS, while expressly allowing states to regulate the other terms and conditions of commercial mobile services,⁷ the commission initiated Docket No. 03-0186 to investigate and determine whether it is consistent with the public interest to exempt CMRS providers and their services from any provisions of HRS Chapter 269. On April 7, 2004, the commission issued Decision and Order No. 20890 waiving various regulatory requirements of HRS Chapter 269 and HAR Chapter 6-80 for any and all CMRS providers in Hawaii, subject to certain applicable conditions, limitations, and clarifications. On August 27, 2004, the commission issued Order No. 21324 correcting certain clerical errors of Decision and Order No. 20890 and adopting an official application form for CMRS providers and cellular resellers, i.e., the Official COR Form.

Having reviewed the record, the commission finds that Applicant has sufficiently satisfied the requirements of HAR § 6-80-17, to the extent such requirements were not waived by

⁷See In re Public Utilities Commission, Docket No. 03-0186, Decision and Order No. 20890, filed on April 7, 2004 ("Decision and Order No. 20890"), at 1-2 (citing Pub. L. No. 103-66, Title VI, § 6002, 107 Stat. 312, 392 (1993) (codified in principal part at 47 U.S.C. § 332)).

Decision and Order No. 20890, as amended by Order No. 21324.⁸ Consistent with Decision and Order No. 20890, the commission also finds, at this time, that providing appropriate regulatory flexibility to entities providing CMRS, including wireless resellers, promotes increased competition and investment in the State's wireless telecommunications market.

Based on the foregoing, the commission concludes that Applicant should be granted a COR to operate as a reseller of wireless telecommunications services in the State. With respect to the Consumer Advocate's recommendations, the commission concludes that Applicant should review the number provided for customer service and provide a toll-free telephone number to receive calls regarding service or billing matters, as required by HAR § 6-80-114(6).⁹ In addition, Applicant should maintain and promptly provide updated information regarding its service plans (with terms and conditions) and the appropriate contact information (i.e., designated carrier representative) upon request by the commission, the Consumer Advocate, or a consumer, and such updated information should be placed on Applicant's website, if any.

⁸To the extent that it was not waived by Decision and Order No. 20890, as amended by Order No. 21324, the commission also waives the publication requirement in HAR § 6-61-57(2). See HRS § 269-16.9; HAR § 6-80-135.

⁹The commission notes that the requirements of HAR § 6-80-114 were not waived by Decision and Order No. 20890.

III.

Orders

1. Applicant is granted a COR to operate as a reseller of wireless telecommunications services in the State.

2. As a holder of a COR, Applicant shall be subject to all applicable provisions of HRS Chapter 269; HAR Chapters 6-80, 6-81, and 6-82; any other applicable State laws and commission rules; and any orders that the commission may issue from time to time.

3. Consistent with Decision and Order No. 20890, Applicant is not required to file tariffs in accordance with HAR §§ 6-80-39 and 6-80-40; provided that Applicant maintains and promptly provides updated information regarding its service plans (with terms and conditions) and the appropriate contact information (i.e., designated carrier representative) upon the commission's, the Consumer Advocate's, or a customer's request. Such updated information shall also be placed on Applicant's website, if any, within a reasonable time period.

4. Within thirty days of the date of this Decision and Order, Applicant shall supplement its Application, through a letter to the commission, with a copy to the Consumer Advocate, if it determines that the telephone number it initially provided to receive customer service questions is not a toll-free number, in compliance with HAR § 6-80-114(6). Consistent with paragraph no. 3 above, Applicant shall also update its number to receive customer service questions on its website, if any, within a reasonable period of time.

5. Within thirty days from the date of this Decision and Order, Applicant shall also pay a telecommunications relay service ("TRS") contribution of \$8.00, established pursuant to: (A) Act 50, adopted on May 7, 2003 (codified as HRS § 269-16.6); and (B) Decision and Order, filed on June 27, 2008, in Docket No. 2008-0089. The business check shall be made payable to "Hawaii TRS," and sent to the Hawaii TRS Administrator, Solix, Inc.,¹⁰ 100 S. Jefferson Road, Whippany, NJ 07981. Written proof of payment shall be sent to the commission.

6. Failure to promptly comply with the requirements set forth in paragraphs 2 to 5, above, as applicable, may constitute cause to void this Decision and Order, and may result in further regulatory action, as authorized by law.

DONE at Honolulu, Hawaii MAY 26 2009.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Ji Sook Kim
Ji Sook Kim
Commission Counsel

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

2009-0039.laa

¹⁰Solix, Inc. was formerly known as NECA Services, Inc.

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

CATHERINE P. AWAKUNI
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

JOSEPH DUNBAR
DIRECTOR - ADMINISTRATIVE REPORTING
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